

Practical Aspects of Applicability of Tax Audit



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Shared at

ICAI – Gautam Buddha Nagar Branch (CIRC)

21st August 2024

LEGISLATION FOR AY 2024-25

S. 44AB

- Business – exceeds Rs. 1 Cr. / 10 Cr
- Profession – exceeds Rs. 50 L
- Business u/s 44AE /44BB/44BBB; income <deemed profit
- Profession u/s 44ADA; deemed profit <50% &TI > MANCT
- Business u/s 44AD (4) & TI > MANCT

Rule 6G

- Prescribing the Forms for Report u/s 44AB

Form 3CA

- Report in case of a person who is required to get his A/cs audited under any law

Form 3CB

- Report in any other case

Form 3CD

- Particulars as required in Form 3CA or Form 3CB

S. 271B

- Penalty $\frac{1}{2}\%$ Maximum Rs. 1.50 L

APPLICABILITY OF 44AD(44ADA) / 44AB

Mr. A started Mfg – 1st Yr - Turnover (all cash)
– 150L; NP – 8 L; TI - 8.50 L

- AD - No
- AB - Yes

Ms. B - Trading - Turnover (all cash) – 90L; NP -
10L; Doctor- Fee – 45 L; NP- 25 L; TI -32L

- AD – No
- ADA - Yes
- AB - No

Ms. C – Trading Turnover (all cash)– 80L
NP – 4 L; TI- 3 L

- AD – No
- AB - No

Mr. D - Trading; Turnover (all cash) - 95L;
Commission – 6 L; NP- 15L; TI - 14L

- AD - No
- AB - Yes

APPLICABILITY OF 44AD(44ADA) / 44AB

Mr. E - Turnover (all bank) – AY 2023-24 -150L
availed S. 44AD; AY 2024-25 – Tr 225 L (all
bank) NP – 10 L; TI - 8.50 L

- AD - No
- AB - Yes

Ms. F - Turnover in 1st year (all cash) – AY 2023-
24 - 120L; NP - 10L; No 44AD; Turnover (all
bank) AY 2024-25 – 220L; NP – 20 L – 44AD!!

- AD - Yes
- AB - No

Ms. G - CA Turnover (all Bank)– 60L NP – 35 L;
TI- 32 L

- ADA – Yes
- AB - No

Mr. H – CA Turnover – 18L; NP– 7L ; TI- 7 L

- ADA – No
- AB - Yes

APPLICABILITY OF 44AB – SPL. CASES

Mr. I – Profession – 40 L; Business – 80 L

• No

Ms. J – Profession – 80 L; Business – 70 L

Yes, B & P

M/s K Inc – Non- Resident, FTS 11 Cr. TDS u/s 195, DTAA

• Yes

CA. L – Remuneration 90 L from firm in which partner

• No, *Perizad Zorabian Irani v. PCIT Mumbai WP 1333/2021 Bombay HC*

SECTION 44AD ESSENTIALS

- **Should be eligible assessee**
 - **Ind., HUF, Firm (except LLP); and**
 - **No s. 10A, 10AA, 10B, 10BA & Chp VIA Part C**
- **Should be doing eligible business**
 - **Any except 44AE; and**
 - **Turnover < 2 Crs / 3 crs**
- **Section not applicable to a person carrying:**
 - **Profession u/s 44AA(1)**
 - **Commission or brokerage**
 - **Agency business**
- **Deemed profit 8% / 6% or more**
- **Commensurate with fund flow!!!**

PRESUMPTIVE TAXATION AMENDMENT AY 2024-25

× S. 44AD

+ 2 Cr to 3 Cr, if aggregate of amounts received during PY in cash do not exceed 5% of total turnover or gross receipts

× S. 44ADA

+ 50 L to 75 L – same basis

× S. 44AB – 1st Proviso – s. 44AD / ADA excluded

SECTION 44ADA ESSENTIALS

- **Applicable to Individual, HUF, Firm (excluding LLP)**
- **Should be engaged in profession – section 44AA(1) read with rule 6F**
- **Gross receipt < 50 Lakhs / 75 Lakhs**
- **Deemed profit 50% or more**
- **Commensurate with fund flow!!!**

PROFESSION – S. 44ADA

- **Section 44AA (1) read with Rule 6F**
 - **Legal**
 - **Medical**
 - **Engineering**
 - **Architectural**
 - **Accountancy**
 - **Technical Consultancy**
 - **Interior Decoration**
 - **Authorised Representative**
 - **Company Secretary**
 - **Film Artist, actors, cameramen, editor.....**
 - **Information Technology**

PROFESSION

S. 44AA

S. 44ADA

S. 194 J

S. 44AB

S.S (1)

S.S (2)

S. 44AA(1)

Notified

Books
Mandatory –
GR > 1.50 L

Limits – Ind /HUF
– 25 L/ 2.5L;
Others – 10L / 1.2
L

Sportspersons,
Umpires, etc.

S. 194J NOTIFIED LIST

- **Sports Persons**
- **Umpires & Referees**
- **Coaches & Trainers**
- **Team Physicians & Physiotherapists**
- **Event managers**
- **Commentators**
- **Anchors**
- **Sports Columnists**

44AB(a)

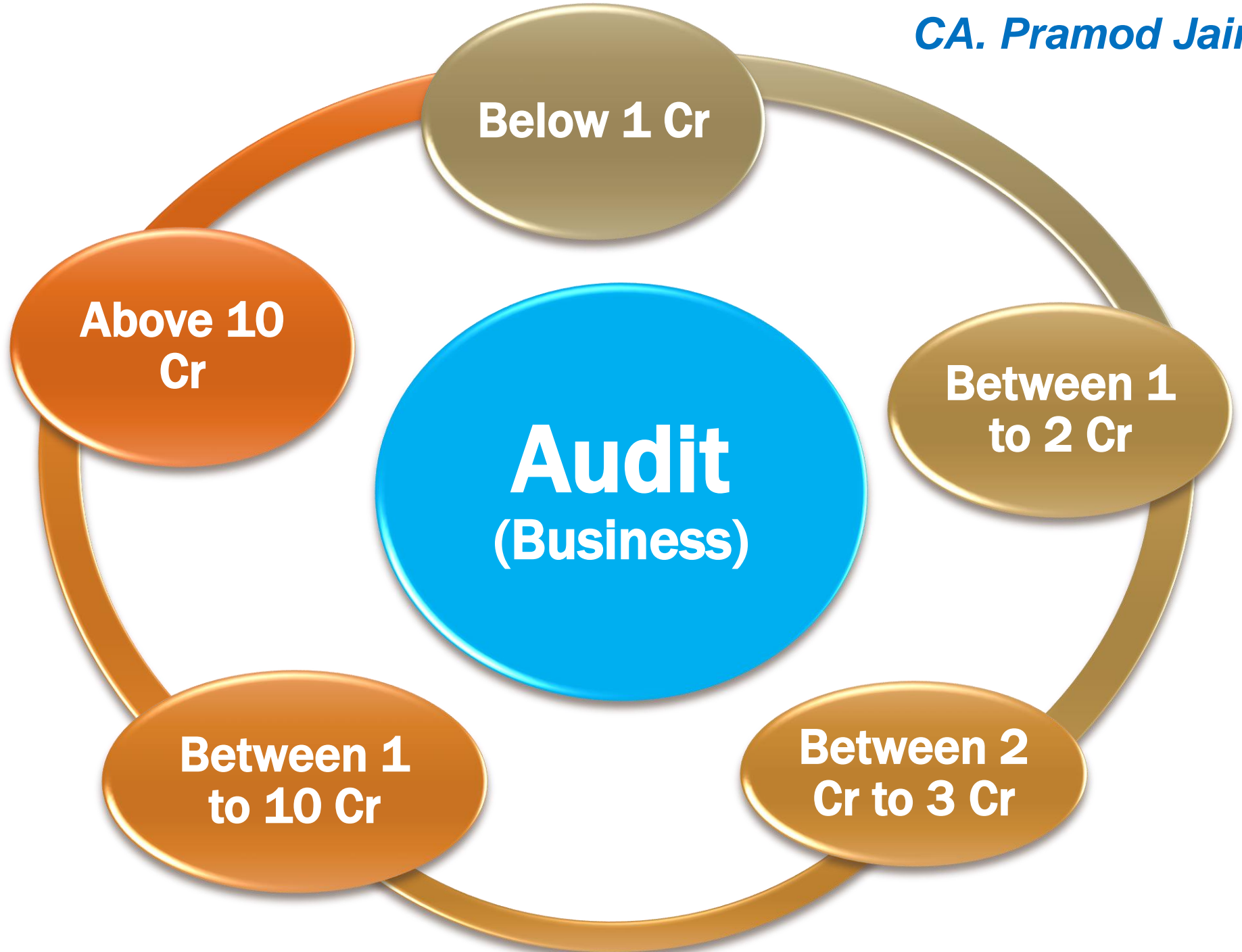
- × **Limit 1 Cr / 10 Cr !!**
- × **Limit of 10 Cr Only if:**
 - + **Aggregate of all amounts received in cash do not exceed 5% of said amt.**
 - + **AND**
 - + **Aggregate of all Payments made in cash do not exceed 5% of said payment**

44AB(a) ????

- ✘ **Payments all by banking channels**
- ✘ **Receipts:**
 - + **6 Crs sales out of which 20 Lacs in Cash**
 - + **Proprietor introduces capital - 25 Lacs in cash**
 - + **Loans received - 50 Lacs by NEFT**
 - + **Is tax audit u/s 44AB required?**
 - + **Yes, as total receipts - 675 L ; cash - 45L**
- ✘ **Is it mandatory or optional??**
 - + **Mandatory - Part I (1) of 2nd schedule**
- ✘ **Non -A/c Payee Cheque/ Draft - Cash**

PRESUMPTIVE INCOMES

S. No.	Section	Nature of Activity	Less than Deemed Profits	Provisions for Audit	Audit Provision
1	44AD	Business	If availed 44AD & not availed in any of next 5 years, then for next 5 years - Audit	44AD(4)/(5)	44AB(e)
2	44ADA	Profession	Audit	44ADA(4)	44AB(d)
3	44AE	Goods Carriage	Audit	44AE(7)	44AB(c)
4	44B	Shipping of NR	Not Allowed	Nil	Nil
5	44BB	Exploration of Mineral Oils by NR	Audit	44BB(3)	44AB(c)
6	44BBA	Operation of Aircraft by NR	Not Allowed	Nil	Nil
7	44BBB	Turnkey Power Projects by FC	Audit	44BBB(2)	44AB(c)



Below 1 Cr

Above 10 Cr

Between 1 to 2 Cr

**Audit
(Business)**

Between 1 to 10 Cr

Between 2 Cr to 3 Cr

???

- ✘ **Are Financial Statements Audited during Tax audit of Prop. Partnership?**
- ✘ **Are Notes to the accounts prepared for Non-Corporates**
- ✘ **Are Accounting Standards applicable to Non-corporates?**
- ✘ **What if there is non-compliance?**
- ✘ **Where to Report such non-compliance?**

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